

Board of Zoning Appeals

601 Lakeside Avenue, Room 516 Cleveland, Ohio 44114-1071 Http://planning.city.cleveland.oh.us/bza/cpc.html 216.664.2580

JANUARY 13, 2019

9:30

Calendar No. 19-297: 5808 Outhwaite Ave.(PPN124-05-036) Appealing the Division of Parks

Maintenance and Properties Invoices

Ward 5 Phyllis E. Cleveland

Margaret Weldon Foxworth., owner, appeals under the authority of Section 76-6(b) of the Charter of the City of Cleveland and Section 329.02(d) of the Cleveland Codified Ordinances from the decision of Natasha Bruister the Division of Park Maintenance and Properties Project Coordinator, to deny Ms. Foxworth's appeal of 8 invoices on August 12, 2019 (letters dated October 18, 2019). The invoices were issued in accordance with chapter 209 of the Cleveland Codified Ordinance which authorizes the Department of Parks Maintenance and Properties to abate nuisances on any property and bill the owner of the abated property at a rate of seven cents per square foot. (Filed November 15, 2019).

9:30

Calendar No. 19-289: 13523 Lakewood Hts. Blvd. Ward 16
Violation Notice Appeal Brian Kazy

Kelley's Pub LLC., owner, appeals under the authority of Section 76-6 of the Charter of the City of Cleveland and Section 329.02(d) of the Cleveland Codified Ordinances from Notice of Violation Number V19034271 issued on October 7, 2019 by the Cleveland Department of Building and Housing for failure to comply with Section 327.02(c) of the Cleveland Codified Ordinances which states that there shall be no change, substitution or extension in the use of any building or premises until the required use permit and Certificate of Occupancy has been issued by the Division of Building and Housing and Section 347.08(A) which states that trash areas shall be properly screened. (Filed November 12, 2019).

9:30

Calendar No. 19-298: 8901 Wade Park Ward 7
Basheer S. Jones
9 Notices

Kenmore Gardens Ltd., owner, proposes to expand the use of an apartment to include a community center on a parcel located in Two-Family Residential and Local Retail Business District. The owner appeals for relief from the strict application of the following sections of the Cleveland Codified Ordinances:

- 1. Section 337.03 which states that by reference per 337.02 (g)(3) Community Center is permitted if located 30' from any adjoining premises in residence district not used for a similar purpose, and subject to BZA approval.
- 2. Sections 352.08 through 352.11 which state that a 6 foot wide transition strip is required at the rear and sides where the use abuts Two-Family District.
- 3. Section 349.04(e) which states that 28 parking spaces at the rate of one per 150 square feet plus one per each employee is required; 9 spaces are shown (Filed November 19, 2019)

9:30

Calendar No. 19-299: 6401 Broadway Ave Ward 12
Anthony Brancatelli
17 Notices

FBE. Inc, owner, proposes to construct a new drive-through Walgreens store in C2 Local Retail Zoning District. The owner appeals for relief from the strict application of the following section of the Cleveland Codified Ordinances:

- 1. Section 357.07(a) which states that a 43 foot setback, from center line which is equal to 10 feet, is required along Broadway Ave.; parking spaces are within setback.
- 2. Section 349.15 which states that 1 bicycle parking space is required; none proposed.
- 3. Section 341.02 which states that review and approval of the City Planning Dept., is required. (Filed November 22, 2019)

9:30

Calendar No. 19-300: 2193 Cornell Rd Ward 6
Blaine A. Griffin
38 Notices

Hemingway Development, prospective purchaser, (owners: Minnillo Family Partners, Mike Iammarino Investment Properties and Carmen Petrello) proposes to construct a new three story, 44 unit apartment building on five parcels to be consolidated in a C1 Multi-Family Residential Zoning District. The applicant appeals for relief from the strict application of the following sections of the Cleveland Codified Ordinances:

- 1. Section 357.06(a) which states that a 26' front yard setback is required and 13 feet setback are proposed.
- 2. Section 357.08(b) states that a 44 foot rear yard setback is required; 14 feet are proposed.
- 3. Section 357.09(b)(2)(D) which states that required a 7 foot minimum interior side yard from property line is required and 0 is proposed. A 14 foot aggregate is required and 1.5 foot aggregate is proposed. And, a 10 foot minimum distance from adjacent building is required and 7 feet are proposed.
- 4. Sections 353.01 & 353.02 which state that a height of 35 feet is permitted and 39 feet 7 inches are proposed.
- 5. Section 355.04 which states that the maximum gross floor area of a residential building in a "C" area district is limited to ½ the total lot area or in this case 17,281 square feet are permitted and 58,857 square feet are proposed. (Filed November 22, 2019)

9:30

Calendar No.19-301 Appeal of Hug-John/dba

Midway Parking Inc. from decision of Commissioner of Licenses and Assessments regarding Notice of Deficiency

Hug-John Inc./dba Midway Parking Inc., appeals under the authority of Section 76-6 of the Charter of the City of Cleveland and Section 329.02(d) and 196.71(b)(1) of the Cleveland Codified Ordinances to dispute the November 4, 2019 decision of the Commissioner of Assessments and Licenses to affirm a Notice of Deficiency that was issued on August 23, 2019. (Filed November 25, 2019).

9:30

Calendar No. 19-302: 4719 Franklin Blvd.

Ward 3 Kerry McCormack 15 Notices

Bosworth Martindale, owner, proposes to convert a building consisting of two dwelling units and a store to three dwelling units in a B1 Two-Family Residential District. The owner appeals for relief from the strict application of the following sections of the Cleveland Codified Ordinances:

- 1. Section 337.03 which states that the use of a building for three dwelling units is not permitted in a Two-Family Residential District.
- 2. Section 359.01 which states that a use of building or land lawfully existing on the effective date of the Zoning Code or any amendment or supplement thereto, or for which a permit has been lawfully issued, may be continued even though such use does not conform to the provisions of this Zoning Code for the use district in which it is located, but no substitution or other change in such nonconforming use to other that a conforming use shall be permitted except by special permit from the Board of Zoning Appeals.(Filed November 29, 2019)

9:30

Calendar No. 19-305: 4815 Franklin Blvd

Ward 3 Kerry McCormack 23 Notices

Iglesia Del Salvador, owner, and Chad Kertesz, owner, prospective purchaser, propose to erect a three story, 12,750 square foot, 24 unit residential building in a B1 Two-Family Residential District. The owner appeals for relief from the strict application of the following section of the Cleveland Codified Ordinances:

- 1. Section 337.03 which states that a multi dwelling unit building is not permitted in a Two-Family residential zoning district, first permitted in a Multi-Family residential district.
- 2. Section 355.04 which states that the Maximum gross floor area of a building in a "B" area district is limited to ½ of lot area. Per Cuyahoga County land records 5,647 square feet maximum gross floor area is permitted, 12,750 square feet are proposed.
- 3. Section 355.04 which states that in a "B" area district, 2,400 square feet lot area per dwelling unit, or 57,600 square feet and a 11,294 square foot lot is provided.
- 4. Section 349.04(a) which states that one accessory off-street parking space is required for each dwelling unit. 24 parking spaces required, no legally conforming parking spaces are provided (20 parking spaces requiring separate zoning variances are proposed). Paving and drainage of parking area required.
- 5. Section 349.05(a) which states that parking is not permitted within 10 feet of the wall of any residence with a required window or door.
- 6. Section 349.08 which states that screening, from all adjacent lots, consisting of opaque fence or four feet of landscaping of area with 5 or more parking spaces is required.
- 7. Section 357.13 which states that parking is not a permitted side yard encroachment.
- 8. Section 357.01(d) which states that a specific 10 foot setback is established for Franklin Blvd. where 4 feet 8 inches are proposed.
- 9. Section 353.01 which states that the maximum building height is 35 feet at setback line: compliance cannot be determined without submission of elevation plan.
- 10. Section 352.10(a)(1) which states that a six foot wide landscaped frontage strip is required for parking lot of over 10 spaces.

- 11. Section 358.04(a) which states that the height of a fence cannot excess distance from main building on adjacent lot the proposed 6 foot fence is apparently within 6' of main building. No height or type of fence specified on plan for proposed fence in front yard, compliance cannot be determined.
- 12. Section 341.02 which states that review and approval of the Cleveland Landmarks Commission is required. (Filed December 4, 2019)

POSTPONED FROM NOVEMBER 11, 2019

9:30

Calendar No. 19-265: 1453 E. 66 Street Ward 7

(AKA 1449 E. 66 Street) Basheer S. Jones

16 Notices

Omar, Ibrahim Abdo & Mohammed Thaker., owners, propose to establish use as a convenient store in a B1 Two-Family Residential District. The owner appeals for relief from the following sections of the Cleveland Codified Ordinances:

- 1. Section 337.03 which states that a convenient store is not permitted in the Two-Family Residential District but is first permitted in a Local Retail Business District.
- 2. Section 359.02 which states that when the use is voluntarily discontinued for six (6) months or more. The intent to voluntarily discontinue a use may be implied from acts or the failure to act, including, but not limited to, the removal of and failure to replace the characteristic equipment and furnishings; or the cessation of business operations for two (2) years or more unless the cessation of business operations was caused by factors out of the control of the business such as the disability or illness of the proprietor or governmental action unrelated to the behavior of the business. If the business operations have ceased for more than two (2) years, the presence of characteristic equipment and furnishings is not relevant. The use was discontinued for two years or more(Filed October 10, 2019 -Testimony Taken) FIRST POSTPONEMENT MADE AT THE REQUEST OF THE CITY PLANNING COMMISSION TO ALLOW FOR TIME TO HOLD A PUBLIC MEETING.

POSTPONED FROM DECEMBER 9, 2019

9:30

Calendar No. 19-278: 16802 Puritas Ave Ward 17
Charles Slife
14 Notices

Tony Posanle, owner, proposes to erect 119' lineal feet of 6 foot tall wooden shadowbox fence and 20 lineal feet of 6 foot tall chain link gate in an A1 One-Family Residential District. The owner appeals for relief from the strict application of the following sections of the Cleveland Codified Ordinances:

- 1. Section 358.03(a) which states that a fence running parallel to a driveway within 15 feet from property line shall not exceed 2 and ½ feet in height and shall be at least 75% percent open; the remainder of fence in front yard must be at least 50 percent open.
- 2. Section 358.04(a) which states that a fence in the sides street yard shall not exceed 4 feet in height and shall be at least 50 percent open.
- 3. Section 358.04(a) which states that no fence shall be higher than its distance from residence building on adjacent lot; 4 feet is required and 6 feet are requested.

4. Section 358.04(c)(1) which states that Board of Zoning Appeals approval is required for chain link fence in side street yard.(Filed October 30, 2019-No Testimony) FIRST POSTPONEMENT MADE AT THE REQUEST OF THE APPELLANT DUE TO A SCHEDULING CONFLICT.

POSTPONED FROM NOVEMBER 25, 2019

9:30

Calendar No. 19-188: 3540 W. 117th Street Ward 11
Dona Brady
27 Notices

Neal Assad, owner, proposes to establish use as auto repair shop and used car sales in a C1 Local Retail Business District. The owner appeals for relief from the strict application of the following sections of the Cleveland Codified Ordinances:

- 1. Section 343.01(b) which states that Motor Vehicle Sales and Repair Shop are not permitted uses in the Local Retail Business District but are first permitted in General Retail District if 100 feet from a residential district per section 343.11 (b)(2)(1) of the Cleveland Codified Ordinances.
- 2. Section 357.01(c) which states that a front yard setback is required in Local Retail Business District
- 3. Section 357.13 (b) which states that Parking of motor vehicles is not a permitted front yard setback encroachment. The front yard setback is established by building line of existing residences on W. 117 Street per section 357.06(a)
- 4. Sections 352.08 through 12 which state that a 10 foot Wide transition strip of at least 75% year round opacity where property abuts residential district at rear and side is required.
- 5. Section 343.18(d)(e) which states that the driveway width cannot exceed 30 feet and that the distance between two driveways must be at least 30 feet.
- 6. Section 349.04(f) which states that an Auto Sales lot must provide 25 percent of their gross lot area for customer parking.
- 7. Note: A separate permit is required for sign; sign detail is not shown. (Filed July 24, 2019-No Testimony) THIRD POSTPONEMENT MADE AT THE REQUEST OF THE APPELLANT TO ALLOW FOR TIME TO RECEIVE PUBLIC RECORDS REQUEST. SECOND POSTPONEMENT MADE AT THE REQUEST OF THE APPELLANT. FIRST POSTPONEMENT MADE AT THE REQUEST OF THE COUNCILWOMAN TO ALLOW FOR TIME FOR A COMMUNITY MEETING.